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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6645 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

NATVARSINH RAISINH CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

MR MANOJ N POPAT for Petitioner

MR V.M.PANCHOLI AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/07/1999

ORAL JUDGEMENT

The petitioner was found to be guilty of accepting illegal gratification and the charge was proved in the Departmental Inquiry and Deputy Superintendent of Police, Anand passed the impugned order dt. 12-4-1983 (Annexure :A), dismissing the petitioner from service. The petitioner's appeal came to be dismissed by the Additional Inspector General of Police on 30-8-1983. The petitioner preferred revision application before the Director General of Police and the same also came to be dismissed on 28/2/1994. The petitioner's second revision application came to be dismissed by the State Government on 18/9/1994. It is against the aforesaid orders that

the present petition is filed.

2. In view of the fact that the charge levelled against the petitioner of having accepted illegal gratification has been found by the Departmental Authorities to have been proved and the petitioner's appeal as well as two revision applications have been dismissed, in this petition under Article 226 of the Constitution, it is not possible to go into disputed questions of fact raised by the petitioner which would require the Court to undertake exercise of reappreciating the evidence of the witnesses.

3. As regards the contention of breach of principle of natural justice, the grievance made on behalf of the petitioner is that the copies of the statements recorded at the preliminary inquiry were required to be furnished to the petitioner. The contention cannot be accepted. The preliminary inquiry is held by the departmental authority to decide as to whether regular departmental inquiry should be held or not. In this matter, regular departmental inquiry was held and the statements of witnesses who were examined at such inquiry were furnished to the petitioner. Hence the petitioner had no right to ask for the copies of the statements of witnesses at the preliminary inquiry, nor to get the copy of the preliminary inquiry report. It is not the case of the petitioner that he was not given copies of the statements of the witnesses examined at the departmental inquiry.

4. Mr. Popat's further contention is that Mr. Sukhdev, District Superintendent of Police had no jurisdiction to issue the chargesheet and it is further contended that Additional General of Police had no authority to hear the appeal as the power is vested in the Dyputy Inspector General of Police.

The petitioner was an Unarmed Police Constable for whom the appointing authority was the District Superintendent of Police, and therefore, it cannot be said that the issuance of chargesheet was illegal. Admittedly, the impugned penalty order was passed by the District Superintendent of Police, Kheda on 12/4/1979, within whose jurisdiction, the petitioner was serving. Similarly, if the appellate authority is the Deputy Inspector General of Police and if at the relevant time, the duties were assigned to a higher officer holding the post of Additional Inspector General of Police, or if the post of Dyputy Inspector General of Police is upgraded to that of Additional Inspector General of Police, it cannot

be said that the appeal was heard by the authority with no power to hear the appeal. This issue was also considered by the Director General of Police and the State Government in revisions wherein it is clearly stated that the Additional Inspector General of Police, Gandhinagar Range was the head of the Gandhinagar Range and therefore, he was the competent authority to hear the appeal.

5. No ground is made out to interfere with the impugned orders. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

Date: 16/7/1999. (M.S.SHAH,J.)
(ccshah)